

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Auction of FM Translator Construction Permits)	AU Docket No. 17-351
Scheduled for June 21, 2018)	

To: The Commission

COMMENTS OF iHEARTCOMMUNICATIONS, INC.

iHeartCommunications, Inc. (“iHeart”) 1/ hereby files these Comments on the behalf of three of its indirect subsidiaries (the “iHeart Applicants”). 2/ In January 2018, nearly 15 years after the FM translator application filing window was opened in March 2003, the Wireless Telecommunications and Media Bureaus issued a Public Notice announcing a “closed” auction, to commence June 21 2018, for the remaining mutually exclusive FM translator construction permit applications filed in the March 2003 window. 3/ iHeart supports the grant by

1/ iHeart was formerly named Clear Channel Communications, Inc.

2/ The iHeart Applicants here are (1) Clear Channel Broadcasting Licenses, Inc., (2) Capstar TX, LLC (the successor to Capstar TX Limited Partnership), and (3) AMFM Radio Licenses, LLC (the successor to Cleveland Radio Licenses, LLC). Capstar TX Limited Partnership, a Delaware limited partnership, was converted to a Texas limited liability company, Capstar TX, LLC, on December 31, 2009, pursuant to prior “short-form” Commission consent. *See* File No. BALH-20091202AIC. Cleveland Radio Licenses, LLC, a Delaware limited liability company, was merged with and into AMFM Radio Licenses, LLC, a Delaware limited liability company, effective December 31, 2004, pursuant to prior “short-form” Commission consent. *See* File No. BAL-20041217AKE. For the Commission’s convenience, the mutually exclusive Auction 83 groups to which these iHeart Applicants are listed in Attachment A to the Auction 83 Public Notice are set forth on Attachment I hereto.

3/ *See* Public Notice, Auction of FM Translator Construction Permits Scheduled for June 21, 2018; Comment Sought on Competitive Bidding Procedures for Auction 83, DA 18-11, AU Docket No. 17-351 (rel. Jan. 16, 2018) (the “Auction 83 Public Notice”).

the Commission of waivers of Section 1.2105(b)(2) of the Commission's Rules, ^{4/} in order to allow the iHeart Applicants, and any other similarly situated Auction 83 applicants, to participate in the upcoming June 2018 Auction 83, notwithstanding an interim "major change" in ownership at the parent level.

Section 1.2105(b) of the Commission's Rules, "Modification and Dismissal of Short-Form Application (FCC Form 175)" provides at subpart (2), in relevant part: "Major amendments cannot be made to a short-form application after the initial filing deadline. Major amendments include changes in ownership of the applicant that would constitute an assignment or transfer of control, changes in an applicant's size which would affect eligibility for designated entity provisions, and changes in the license service areas identified on the short-form application on which the applicant intends to bid. Minor amendments include, but are not limited to, the correction of typographical errors and other minor defects not identified as major. An application will be considered to be newly filed if it is amended by a major amendment and may not be resubmitted after applicable filing deadlines."

By letter dated August 14, 2013, iHeart (under its then name, Clear Channel Communications, Inc.), filed a request (the "2013 Waiver Request") with the Wireless Telecommunications Bureau for a waiver, to the extent a waiver is deemed necessary, of Section 1.2105(b)(2) to allow its subsidiaries participating in Auction 83 competitive bidding to amend their respective applications to reflect the interim "major change" in ownership at the holding company level. ^{5/} The 2013 Waiver Request detailed the unique circumstances of the

^{4/} 47 C.F.R. § 1.2105(b)(2).

^{5/} The 2013 Waiver Request, a copy of which is at Attachment II, is incorporated by reference hereto. Of the iHeart subsidiaries referenced in the 2013 Waiver Request, it is noted

2008 “going private” change in ownership at the holding company level above the iHeart Applicants, involving multiple licensees, impacting over one thousand broadcast station authorizations and implementing a restructuring approved by public shareholders. The 2008 iHeart going private transaction advanced the public interest by rewarding public shareholder investment in broadcast media, facilitated private equity investment in the broadcast sector and diversified media ownership through divestitures. The full Commission expressly held that the public interest, convenience and necessity were served by this 2008 holding company-level transfer of control. Clearly, the 2008 going private restructuring, which involved all of iHeart’s broadcast stations (except for those subject to divestiture) was undertaken for business reasons entirely unrelated to the handful of iHeart FM translator construction permit applications still pending in 2018.

The 2013 Waiver Request observed that, given these unique circumstances, and the lengthy delays in the Auction 83 proceeding, it would serve the public interest to waive Section 1.2105(b)(2) of the Commission’s Rules to the extent necessary to permit the participation of the iHeart Applicants in competitive bidding for any remaining FM translator construction permit applications submitted in March 2003. That conclusion has even more resonance now, another four years later, where denial of such a waiver would prevent iHeart, a qualified, experienced broadcaster, from participating in twelve -- out of a total of fifty -- bidding

that Citicasters Licenses, Inc. (formerly Citicasters Licenses, L.P.) is not listed on Attachment A to the Auction 83 Public Notice, and thus apparently does not have a mutually exclusive application in the Auction 83 proceeding. AMFM Radio Licenses, LLC, also noted as an applicant subsidiary of iHeart in the 2013 Waiver Request, is currently listed in Attachment A of the Auction 83 Public Notice as Cleveland Radio Licenses, LLC. As set forth in footnote 2 above, Cleveland Radio Licenses, LLC has since merged into AMFM Radio Licenses, LLC in a short-form assignment.

groups in the June 2018 auction. 6/ Not only would the iHeart Applicants and the listening public to be served by the proposed stations be damaged by such unnecessary dismissals, but the government's pocketbook would be diminished by such restricted participation in Auction 83. Consequently, the Commission should waive Section 1.2105(b)(2) for the iHeart Applicants, as well as for any other Auction 83 applicants which have experienced major changes in ownership or control since 2003 for operational or business reasons entirely unrelated to their pending FM translator applications. 7/


For the reasons stated herein and in the incorporated 2013 Waiver Request, good cause is demonstrated for the grant to the iHeart Applicants of waivers of Section 1.2105(b)(2) in order to allow the iHeart Applicants to amend without dismissal their applicable short form application to reflect the interim major ownership change at the holding company level which was unrelated to the pending FM translator construction permit applications.

6/ iHeart expects that Auction Group MM-FMT040 (North Carolina 2-Eden) will be removed from the auction, as the only two listed mutually exclusive applications are (and were at the time of application in 2003) both iHeart subsidiaries and iHeart will voluntarily withdraw one of these applications.

7/ Likewise, the Commission should implement revised filing and bidding procedures for Auction 83 applicants, including opening a remedial filing window, to reflect such waivers and to assist in the participation in the bidding process of applicants under common control. *See, e.g.,* Auction 83 Public Notice at ¶ 11.

Respectfully submitted,

iHeartCommunications, Inc.

By: 

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February 6, 2018

Attachment I

iHeart Applicants in Auction 83

Auction 83 MX Group	MX Group Description	Listed Applicant	Current Applicant Name	File Number
MM-FMT009	Alabama 1 - Florence	CLEAR CHANNEL BROADCASTING LICENSES, INC.	No Change	BNPFT20030317AOA
MM-FMT021	Florida 1 – Nevins, Vero Beach	CAPSTAR TX LIMITED PARTNERSHIP	CAPSTAR TX, LLC	BNPFT20030314BQE
MM-FMT022	Florida 2 – Panama City	CLEAR CHANNEL BROADCASTING LICENSES, INC.	No Change	BNPFT20030317ANN
MM-FMT023	Georgia - Macon	CLEVELAND RADIO LICENSES, LLC	AMFM RADIO LICENSES, LLC	BNPFT20030314BWE
MM-FMT031	Massachusetts – So. Hadley, Westfield	CAPSTAR TX LIMITED PARTNERSHIP	CAPSTAR TX, LLC	BNPFT20030317AHB
MM-FMT036	New Hampshire / Vermont	CLEAR CHANNEL BROADCASTING LICENSES, INC.	No Change	BNPFT20030317APX
MM-FMT038	North Carolina / South Carolina	CAPSTAR TX LIMITED PARTNERSHIP	CAPSTAR TX, LLC	BNPFT20030317AGZ
MM-FMT039	North Carolina 1 – Morrisville, Raleigh	CAPSTAR TX LIMITED PARTNERSHIP	CAPSTAR TX, LLC	BNPFT20030314BRQ
MM-FMT041	North Carolina 3 – Cary, Raleigh	CAPSTAR TX LIMITED PARTNERSHIP	CAPSTAR TX, LLC	BNPFT20030314BRX

Auction 83 MX Group	MX Group Description	Listed Applicant	Current Applicant Name	File Number
MM-FMT042	North Carolina 4 – Waynesville, Clyde	CAPSTAR TX LIMITED PARTNERSHIP	CAPSTAR TX, LLC	BNPFT20030317AJO
MM-FMT043	South Carolina 1 – Hammond Crossroads, Orangeburg	CAPSTAR TX LIMITED PARTNERSHIP	CAPSTAR TX, LLC	BNPFT20030317AJA
MM-FMT044	South Carolina 2 - Sumter	CAPSTAR TX LIMITED PARTNERSHIP	CAPSTAR TX, LLC	BNPFT20030317AJO

Note the following Auction 83 MX Group is comprised solely of two iHeart subsidiary applicants, which will be resolved by a dismissal of one of the applications:

Auction 83 MX Group	MX Group Description	Listed Applicant	Current Applicant Name	File Number
MM-FMT040	North Carolina 2- Eden	CAPSTAR TX LIMITED PARTNERSHIP	CAPSTAR TX, LLC	BNPFT20030317AKO
		CLEAR CHANNEL BROADCASTING LICENSES, INC.	No Change	BNPFT20030317AOU

Attachment II

2013 Waiver Request



August 14, 2013

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**Re: Auction No. 83
Indirect Subsidiaries of Clear Channel Communications, Inc.
Request for Waiver of 47 C.F.R. Section 1.2105(b)(2)**

Dear Ms. Wiener:

This waiver request is being submitted on behalf of the indirect subsidiaries (the “CC Applicants”)¹ of Clear Channel Communications, Inc. (“CCCI”) with pending Form 175 (“Short Form”) applications filed in the March 2003 FM Translator filing window (the “Auction 83 Short Form Window”),² to the extent that the CC Applicants’ would seek to participate in the upcoming Auction 83 competitive bidding window.³ Specifically, to the extent a waiver is deemed necessary, the CC Applicants hereby request a waiver of Section 1.2105(b)(2) of the Commission’s Rules⁴ to allow the CC Applicants participating in Auction 83 competitive bidding to amend their respective applications to reflect the interim “major change” in ownership at the holding company level.

¹ The CC Applicants are identified on Appendix A hereto.

² See *FM Translator Auction Filing Window and Application Freeze*, Public Notice, 18 FCC Rcd 1565 (MB/WTB 2003); *FM Translator Auction Filing Window and Application Freeze Extended to March 17, 2003*, Public Notice, 18 FCC Rcd 3275 (MB/WTB 2003).

³ The Media Bureau’s May 20, 2013 notice listed the CC Applicants as holding pending Short Form applications in 54 mutually exclusive Auction 83 groups, pre-settlement window. See *Public Notice, FM Translator Auction 83 Mutually Exclusive Applications Subject to Auction*, DA 13-1170 (MB rel. May 20, 2013).

⁴ 47 C.F.R. § 1.2105(b)(2).

Section 1.2105(b), “Modification and Dismissal of Short-Form Application (FCC Form 175)” provides at subpart (2), in relevant part: “Major amendments cannot be made to a short-form application after the initial filing deadline. Major amendments include changes in ownership of the applicant that would constitute an assignment or transfer of control, changes in an applicant’s size which would affect eligibility for designated entity provisions, and changes in the license service areas identified on the short-form application on which the applicant intends to bid. Minor amendments include, but are not limited to, the correction of typographical errors and other minor defects not identified as major. An application will be considered to be newly filed if it is amended by a major amendment and may not be resubmitted after applicable filing deadlines.”

The Auction 83 Short Form Window was held from March 10 to March 17, 2003, for the submission of proposals for new FM Translator authorizations and major modifications of existing FM Translator stations.⁵ The CC Applicants timely filed Short Form applications in the Auction 83 Short Form Window proposing new FM Translator stations.

At the time of the Auction 83 Short Form Window, as now, the CC Applicants were indirect wholly owned subsidiaries of CCCI. In 2003, CCCI was a publicly-traded company listed on the New York Stock Exchange. Five years later, in 2008, CCCI implemented a “going private” restructuring, which had been approved by CCCI’s board of directors as well as by a majority of the CCCI shareholders. With this restructuring, then-public shareholders retained thirty per cent of the voting rights in the surviving holding company, with the majority of control passed to private equity funds controlled by Thomas H. Lee Partners, L.P. and Bain Capital, LLC. Thus, many of the public shareholders of CCCI were able to monetize their investment in broadcast media as a consequence of the going private restructuring. At the time of the transfer application to the FCC seeking approval of this restructuring, CCCI’s subsidiaries were the licensees of over 1170 broadcast radio stations (in addition to broadcast television stations), and the transaction was valued at approximately \$27.4 billion, including the assumption or repayment of approximately \$8 billion of net debt.

With certain divestiture conditions, the full Commission determined that the public interest, convenience, and necessity would be served by the CCCI going private transaction and issued its approval in January 2008.⁶ In order to accommodate this multi-station transaction, in granting its approval, the Commission waived its policy of not acting on transfer applications while renewal applications of stations subject to the transfer were pending.⁷ The FCC-approved CCCI going private restructuring was consummated on July 30, 2008, well over five years after the close of the Auction 83 Short Form Window.

⁵ See *supra* n. 2.

⁶ See *In re Existing Shareholders of Clear Channel Communications, Inc.*, 23 FCC Rcd 1421 (2008).

⁷ See *id.* at 1435-36 [¶ 34].

As the Commission implicitly recognized in granting its consent to the multi-station CCCI going private transaction, certain policies that are administratively appropriate when applied to a single station or small group of stations would be an undue impediment to transactions involving multiple authorizations. Likewise, the Wireless Telecommunications Bureau should waive the “no major change in ownership” rule at this time so as to not impede the participation of the CC Applicants in the Auction 83 competitive bidding.

Section 1.3 of the Commission’s Rules⁸ provides that any provision of the Rules may be waived by the Commission in whole or in part, for good cause shown.⁹ The Commission may exercise its discretion to waive a policy or rule where the particular facts make strict compliance inconsistent with the public interest.¹⁰ In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.¹¹

Here, waiver of Section 1.2105(b)(2) would be an equitable accommodation given the extraordinary length of time the CC Applicants’ Short Form applications have been pending without the opportunity to proceed to competitive bidding. It is noteworthy that the CC Applicants did not, and are not, claiming bidding credits. Thus, the 2008 major change in ownership is not impacting the CC Applicants standing in the competitive bidding process. Not only would a waiver of Section 1.2105(b)(2) here not undermine the integrity of the auction process, it would serve the public interest by maintaining the CC Applicants’ ability to participate in competitive bidding, thereby potentially increasing revenues to the Treasury.

The CC Applicants could not have predicted in March 2003 that the Commission would defer the competitive bidding for Auction 83 for so many years, and that in the interim the shareholders of CCCI would approve a major restructuring. The CC Applicants appreciate that the Commission and its staff have worked hard to process an extraordinarily large number of Auction 83 applications and balance complex LPFM issues, resulting in unexpected delays in the competitive bidding for Auction 83. Nevertheless, the public and private equity market forces that resulted in the CCCI going private transaction in mid-2008 could not stand still while the Commission resolved these issues and processing burdens. It would have disserved the CCCI shareholders for a transaction of the magnitude of the going private restructuring to be held in abeyance for what has turned into a ten-year wait before the opening of competitive bidding. On the other hand, had the Commission processed the Auction 83 applications promptly, including the conduct of the auction within a predictable timeframe, there simply would have been no major change in ownership of the CC Applicants impacting their participation in Auction 83.

⁸ 47 C.F.R. § 1.3.

⁹ *Id.*

¹⁰ *See, e.g., Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

¹¹ *See, e.g., WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *aff’d.*, 459 F.2d 1203 (1972), *cert. denied*, 93 S.Ct. 461 (1972).

Under that scenario, any FM translator authorizations obtained by the CC Applicants from winning bids in such a timely-conducted auction would have been just additional authorizations listed on the transfer application for each CC Applicant, with no loss of the opportunity to participate in competitive bidding.

While the waiver request here is based on unique circumstances, it is instructive that the Media and Wireless Telecommunications Bureaus have waived Section 1.2105(b)(2) four times for noncommercial educational applications filed in auction windows, including Auction 83, to permit such applicants to participate in competitive bidding by de-selecting noncommercial status, which would otherwise be deemed a “major change.”¹² These global waivers were extended to “avoid the harsh result of dismissing applicants based on subsequently adopted processing rules....”¹³ A similarly harsh and inequitable result would befall the CC Applicants if the 2008 going private restructuring stood to derail their participation in Auction 83 competitive bidding due to the unanticipated delay in the auction.

The 2008 major change in ownership of the CC Applicants occurred at the holding company level, involved multiple licensees, impacted over one thousand broadcast station authorizations and implemented a restructuring approved by its public shareholders. The CCCI going private transaction advanced the public interest by rewarding public shareholder investment in broadcast media, facilitating private equity investment in the broadcast sector and diversifying media ownership through divestitures. The full Commission expressly held that the public interest, convenience and necessity were served by this transfer of control. Given these unique circumstances, and the lengthy delays in the Auction 83 proceeding, it would serve the public interest to waive Section 1.2105(b)(2) of the Commission’s Rules to the extent necessary to permit the participation of the CC Applicants in competitive bidding for new FM translator stations applied for in March 2003.

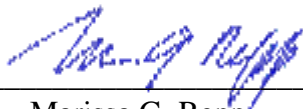
¹² See *Request for Declaratory Ruling*, DA 13-588 at 2 and n. 9 (Chief, Audio Div., Med. Bureau rel. Apr. 2, 2013).

¹³ *Id.* at 2 (citing *Reexamination of the Comparative Standards for Noncommercial Educational Applicants*, 23 FCC Rcd 17423, 17428 (2008)).

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Respectfully submitted,

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Appendix A

“CC Applicants”

AMFM Radio Licenses, L.L.C.

Capstar TX Limited Partnership, now Capstar TX, LLC ^{*}

Citicasters Licenses, L.P., now Citicasters Licenses, Inc. [†]

Clear Channel Broadcasting Licenses, Inc.

^{*} Capstar TX Limited Partnership, a Delaware limited partnership, was converted to a Texas limited liability company, Capstar TX, LLC, on December 31, 2009, pursuant to prior “short-form” Commission consent. *See* File No. BALH-20091202AIC.

[†] Citicasters Licenses, L.P., a Nevada limited partnership, was converted to a Texas corporation, Citicasters Licenses, Inc., on December 31, 2008, pursuant to prior “short-form” Commission consent. *See* File No. BAL-20081201DFJ.